

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.463 of 2010

Santosh Kumar Nayak, S/o Bholaram Nayak, aged about 28 years, R/o Village Katnai Chowk Sajapali, P.S. Akaltara, District Janjgir-Champa, Chhattisgarh

---- Appellant

versus

The State of Chhattisgarh through P.S. Akaltara, District Janjgir-Champa, Chhattisgarh

--- Respondent

For Appellant	:	Ms. Shipra Biswas, Advocate
For State/Respondent	:	Shri Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

4.11.2017

1. This appeal is directed against the judgment dated 25.1.2010 passed in Special Electricity Criminal Case No.272 of 2009 by the Special Judge under the Electricity Act, 2003 (henceforth 'the Act of 2003'), Janjgir convicting the accused/Appellant under Section 135(a) of the Act of 2003 and sentencing him with imprisonment for till rising of the Court and fine of Rs.3,000/- with default stipulation.
2. Case of the prosecution, in brief, is that Executive Engineer (Vigilance) V.R. Mourya (PW1) received a complaint on 27.5.2009 about stealing of electric energy by the Appellant. He inquired about the matter and found that the Appellant was stealing the electric energy. The theft electric energy was valued at Rs.70,161/-. First Information Report (Ex.P8) was registered against the Appellant for offence punishable under Section 135 of the Act of 2003. On completion of the investigation, a charge-

sheet was filed against him for offence under Section 135 of the Act of 2003. Charge was framed against him under Section 135(a) of the Act of 2003.

3. In order to rope in the Appellant, the prosecution examined as many as 5 witnesses. Statement of the Appellant was also recorded under Section 313 of the Code of Criminal Procedure in which he denied the circumstances appearing against him. He stated that he had obtained an electric connection from the electricity department and was using the electric energy through a valid connection. He claimed to be innocent and false implication in the case. No defence witness was examined by him.
4. After trial, the Trial Court convicted and sentenced the Appellant as mentioned in the first paragraph of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the Appellant argued that the Appellant did not steal the electric energy. He had obtained a valid electric connection from the electricity department and the use of electric energy was legal. He has been falsely implicated in the case.
6. On the other hand, Learned Counsel appearing for the State supported the impugned judgment.
7. I have heard Learned Counsel appearing for the parties and perused the material available on record including the impugned judgment minutely.
8. In his Court statement, Executive Engineer V.R. Mourya (PW1) has categorically stated that on 27.5.2009, during inquiry, he found that the Appellant, instead of taking electric connection from the electric

meter allotted to him, was using the electric energy from the L.T. Line directly by hooking and was using the same in his house and poultry farm. He further stated that he prepared a spot-inspection report (Ex.P1), panchnama (Ex.P3) and spot-map (Ex.P4). He seized the articles being used in the said theft of the electric energy.

9. Assistant Engineer T.R. Rajwade (PW3) has duly corroborated the above statement of V.R. Mourya (PW1) and deposed that he had lodged a written report (Ex.P7) in the police station and based on which FIR (Ex.P8) was registered against the Appellant by the police. He has categorically stated in paragraph 8 of his cross-examination that supply of electric energy from the electric meter allotted to the Appellant was shut and the Appellant was obtaining and using the electric energy directly from the L.T. Line.
10. Independent witness Narendra Kumar Bhardwaj (PW2) has also supported the case of the prosecution and categorically deposed that the Appellant was obtaining and using the electric energy directly from the L.T. Line by hooking.
11. Considering the material available on record, I do not find any merit in this appeal. The appeal is, therefore, dismissed. The impugned judgment of conviction and sentence is affirmed.
12. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
JUDGE